

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANCINE ROUSELL,

Case No. 09-13451

Plaintiff,

Sean F. Cox

vs.

United States District Judge

COMMISSIONER OF
SOCIAL SECURITY,

Michael Hluchaniuk

United States Magistrate Judge

Defendant.

**REPORT AND RECOMMENDATION
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (Dkt. 16)
AND DEFENDANT'S MOTION TO REMAND (Dkt. 19)**

This matter is before the Court on a Complaint for judicial review following an adverse decision of the Commissioner of Social Security. The Complaint was filed on September 1, 2009, and referred to the undersigned for all pretrial purposes. (Dkt. 1, 3). On May 5, 2010, plaintiff filed a letter, which the Court construed as her motion for summary judgment. (Dkt. 16).

On June 30, 2010, defendant filed a motion to remand this matter. (Dkt. 19). In that motion, defendant indicated that plaintiff concurred with the relief requested, but that because plaintiff was not represented by counsel, defendant determined that seeking a stipulation may not be appropriate. (Dkt. 19). The undersigned issued an order requiring plaintiff to respond to defendant's motion to

remand by August 2, 2010. (Dkt. 20). In that order, the Court noted that a failure to file a response could result in sanctions, including granting all or part of the relief requested by the moving party. (Dkt. 20). Plaintiff has not responded to the motion to remand.

Given that (1) plaintiff appears to have consented to the remand requested by the government; (2) plaintiff did not respond to the motion to remand as ordered; and (3) the relief requested by the government is favorable to plaintiff, the undersigned **RECOMMENDS** that defendant's motion to remand this matter be **GRANTED** and that plaintiff's motion for summary judgment be **DENIED** as moot.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service, as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1981). Filing objections that raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health and Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Local Rule

72.1(d)(2), any objections must be served on this Magistrate Judge.

Any objections must be labeled as “Objection No. 1,” “Objection No. 2,” etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed.R.Civ.P. 72(b)(2), Local Rule 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as “Response to Objection No. 1,” “Response to Objection No. 2,” etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

Date: September 9, 2010

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on September 9, 2010, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Judith E. Levy, AUSA, and the Commissioner of Social Security, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s): Francine Rousell, 5173 Belvidere, Detroit, MI 48213.

s/Darlene Chubb
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